

State of California  
BOARD OF EQUALIZATION  
SALES AND USE TAX REGULATIONS

**Regulation 1566. AUTOMOBILE DEALERS AND SALESMEN.**

*References:* Sections 6015, 6092, 6242, 6249, 6277, Revenue and Taxation Code.  
Accommodation Loans to Customers, see Regulation 1669.  
Credit Sales and Repossessions Generally, see Regulation 1641.  
Demonstration, see Regulation 1669.  
Leased Vehicles, see Regulation 1610.  
Other Retailers, Sales of Vehicles by, see Regulation 1610.  
Resale Certificates Generally, see Regulation 1668.  
Special Provisions Affecting Vehicles, see Regulation 1610.

**(a) DEALERS AID TO SALESMEN.** An automobile dealer, pursuant to Section 6015, is regarded as the retailer of tangible personal property sold by his salesmen in their own behalf if he aids his salesman in making such sales in either of the following ways:

- (1) By reporting the salesmen's sales on the dealer's report of sales to the Department of Motor Vehicles.
- (2) By executing conditional sales agreements with respect to such salesmen's sales in which the dealer appears as the seller.

Dealers who aid their salesmen by acting as guarantors on conditional sales agreements executed by the salesmen or by requiring or permitting the salesmen to use the dealer's showroom or other facilities in making such sales are not required to pay tax on the sale of the vehicles. The purchasers from these salesmen, and from salesmen making sales without dealer aid, must pay the use tax to the Department of Motor Vehicles.

**(b) RESALE CERTIFICATES FROM NONDEALER RETAILERS.** A dealer who is licensed or certificated pursuant to the California Vehicle Code and who sells a vehicle to a retailer who is not regularly engaged in selling or leasing vehicles should accept a resale certificate only if it contains a statement that the specific vehicle is being purchased for resale in the regular course of business.

Unless the person named as the purchaser on the resale certificate is also named on the dealer's report of sale and application for registration, either singly or jointly as registered owner, the sale will be regarded as retail sale subject to sales tax, and the resale certificate will not be honored, whether or not it contains a statement that the specific vehicle is being purchased for resale in the regular course of business.

**(c) SALES TO MEMBERS OF THE ARMED SERVICES.** A dealer (or manufacturer or dismantler) who is licensed or certificated pursuant to the California Vehicle Code must report and pay sales tax to the board with respect to the sale of a vehicle in California to a member of the armed services regardless of the service member's place of residence. A dealer (or manufacturer or dismantler) so licensed or certificated who sells a vehicle outside of California to a member of the armed services for use in California must collect use tax from the service member and remit it to the board unless the sale is made to a service member on active duty, prior to the effective date of discharge and the intention to use the vehicle in California results from official transfer orders to California and not from the service member's own independent determination. The service member will be considered to have made an independent determination to use the vehicle in California if the contract to purchase the vehicle is made after the service member receives official transfer orders to California or if at the time the contract to purchase the vehicle is made the service member arranges to take receipt of the vehicle in California. With respect to purchases made prior to January 1, 1977, however, the service member shall not be deemed to have purchased the vehicle for use in this state, whether the vehicle is delivered instate or out of state, if the contract to purchase the vehicle was made prior to the receipt of official transfer orders to California. The preceding sentence shall not affect the application of sales tax with respect to vehicles delivered in this state.

**(d) OUT-OF-STATE PURCHASES OF VEHICLES — 90-DAY TEST.**

(1) For the purpose of determining whether a vehicle which is purchased outside California is purchased for use in this state, it is presumed that the vehicle was purchased for use here if it enters California within 90 days after its purchase. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the purchaser did not intend to use the vehicle in this state.

(2) Prior out-of-state use not exceeding 90 days from the date of purchase to the date of entry into California is of a temporary nature and is not proof of an intent that the vehicle was purchased for use elsewhere. Prior out-of-state use in excess of 90 days from the date of purchase to the date of entry into California, exclusive of any time of shipment to California or time of storage for shipment to California, will be accepted as proof of an intent that the vehicle was not purchased for use in California. Accordingly, when a vehicle is purchased in a foreign country or in another state and is later shipped to California, the period of use for purposes of the 90-day test will be measured by the interval from the time the purchaser takes possession at the out-of-state point to the time when the vehicle is delivered to a shipping agent or placed in storage for shipment to California.

This subsection applies with respect to vehicles ordered on or after October 1, 1970.

*History:* Adopted August 7, 1957, as restatement of previous ruling, effective September 11, 1957.

Amended September 18, 1963, effective as amended October 1, 1963.

Amended and renumbered August 22, 1969, effective September 24, 1969.

Amended August 5, 1970, effective October 1, 1970.

Amended November 16, 1977, effective December 25, 1977. Clarified taxable sales to service members and noted new interpretation of such sales effective January 1, 1977.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*